

IN THE DRAWINGS

The attached sheets of drawings include changes to Fig. 14, 15A, and 15B. These sheets, which include Fig. 14, 15A, and 15B, replace the original sheets including Fig. 14, 15A, and 15B.

Attachments: 2 Replacement Sheets

### REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-8 are pending in this case. Claims 1, 5, and 6 are amended only to further clarify features of the claims and, therefore, add no new matter.

In the outstanding Office Action, the drawings were objected to; Claim 6 was rejected under 35 U.S.C. § 103(a) as unpatentable over Colley, et al. (U.S. Patent No. 6,650,644, herein “Colley”) in view of portions of the Background of the Specification asserted as Applicants’ Admitted Prior Art (herein “asserted-AAPA”); and Claims 1-5, 7, and 8 were rejected under 35 U.S.C. § 103(a) as unpatentable over Colley in view of asserted-AAPA, further in view of Beshai, et al. (U.S. Pub. No. 2002/0131363, herein “Beshai”).

Figures 14, 15A, and 15B are amended. Thus, Applicants respectfully request that the objection to the drawings be withdrawn.

Applicants respectfully traverse the rejections of the pending claims.

Amended Claim 6 is directed to a router in an IP network and includes “a control and relay unit configured to control and route at said router in accordance with first bits for implementing bandwidth control at said router stored in a first area assigned within an IP-header field of an IP packet, and second bits that indicate a path for routing the IP packet to a destination router at said router stored in a second area also assigned within said IP-header field of the IP packet, wherein **said first bits and said second bits do not interfere with each other within said IP-header field of the IP packet.**”

The outstanding Office Action concedes that Colley does not teach or suggest second bits as defined by Claim 6 but asserts that TOS routing bits described in asserted-AAPA can be properly combined with Colley to teach every element of Claim 6. Further, at page 2, the

outstanding Office Action states that Applicants' previous arguments are moot in light of the new grounds for rejection.

First, Applicants respectfully submit that, though asserted-AAPA is cited in combination with Colley for a rejection of Claim 6 in the outstanding Office Action, Applicants' previous arguments with regard to the elements of Claim 6 for which Colley is cited again have not been addressed. According to MPEP § 707.07(f), "[w]here the applicant traverses any rejection, the Examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." In this case, the outstanding Office Action fails to take note of and answer the substance of Applicants' previous arguments that Colley fails to teach or suggest "a first area assigned within an IP-header field of an IP packet," in derogation of MPEP § 707.07(f).

The outstanding Office Action asserts, at page 4, that it would have been obvious to a person of ordinary skill in the art to combine Colley with TOS routing bits "to improve QoS management." However, that combination is described, in the "Background of the Invention" of the Specification, as creating problems that are addressed by the claimed invention.

Colley describes translation of QoS/class of service information. The purpose of providing the QoS translation, as described at column 5, lines 20-28, of Colley is "to differentiate between contracted service levels" and allow for what is referred to in the "Background of the Invention" section of the present application as DiffServ, wherein packets are routed with higher preference given to higher precedence traffic, according to QoS value.

The "Background of the Invention" section, relied on in the outstanding Office Action as asserted-AAPA, also states, at paragraph [0025] of the published specification, that "with

the TOS routing and the DiffServ...the bits referred to by the respective methods end up interfering with each other.”

Thus, even assuming, *arguendo*, that the modification of Colley with TOS routing bits described in asserted-AAPA were proper, such a combination would still not teach or suggest first bits as defined by Claim 1 and would also not teach or suggest **“said first bits and said second bits do not interfere with each other within said IP-header field of the IP packet,”** as recited in amended Claim 6.

Regarding the above arguments that the modification of Colley with TOS routing bits described in asserted-AAPA is tantamount to the interfering bits described in asserted-AAPA, the Advisory Action states “Examiner does not see such a limitation in the claims.” This statement is not clear to Applicants because Applicants make no assertion of a limitation in the claims. To the contrary, the argument is that the combination of Colley with asserted-AAPA does not result in a limitation of the claims but, rather, in an undesirable result described in asserted-AAPA. The Advisory Action itself asserts that ISC bits in Colley are part of the **8-bit** QoS field. Thus, the assertion in the Advisory Action that those ISC bits, within the **8-bit** QoS field, would not interfere with **4-bit** TOS routing described in asserted-AAPA “within said IP-header field of the IP packet” is clearly incorrect.

Accordingly, Applicants respectfully request that the rejection of Claim 6 under 35 U.S.C. § 103(a) be withdrawn.

Claims 1 and 5, though differing in scope and statutory class, patentably define over Colley and asserted-AAPA for similar reasons as Claim 6. Further, Beshai, which is additionally asserted against Claims 1-5, 7, and 8, does not cure the deficiencies of the combination of Colley and asserted-AAPA discussed above at least with regard to Claims 1, 5, and 6. Thus, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) of

Claim 1, Claims 2-4, which depend therefrom, Claim 5, and Claims 7 and 8, which depend from Claim 6, be withdrawn.

Accordingly, the outstanding rejections are traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

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